

R E M A R K S

The Request for RCE transmittal letter accompanying this amendment requests the Examiner to consider the amendment filed on February 2, 2005. It is assumed that the remarks submitted in that amendment will be fully considered herein.

This amendment amends claim 1 to make it even more clearly within the bounds of patentable subject matter. The list below provides six reasons, each one of which demonstrates that claim 1 is statutory.

1. *The claimed method defines no mathematical algorithm.* Though a simulation is algorithmic in the sense that all computer programs are algorithmic, there is nothing in the claims that defines a mathematical algorithm, and nothing in the idea of simulating a system that inherently requires the simulation algorithm to be a mathematical algorithm)
2. *The method is executed in a hardware* (in contrast, for example, to a paper and pencil, execution of a method), which makes the method statutory.
3. *The method requires a specific and particular hardware arrangement* (N parallel processors, operating on N subsystems of a system to be simulated). There are many embodiments that would NOT infringe claim 1, even if whatever algorithm is used for simulating the system were a mathematical algorithm. The lack of pre-emption of any algorithm by virtue of the fact that only a very specific hardware arrangement can possibly cause an infringement clearly demonstrates that claim 1 is statutory.
4. *The claim relates to a real-live physical system*, as to what is simulated, which makes the method statutory. *Arrhythmia Research Technology v. Corazonix Corp.* 958 F.2d 1053 (Fed. Cir. 1992).
5. *The claim, which defines a method for simulating a physical system, clearly has practical utility*, and therefore it is statutory. *State Street Bank & Trust v. Signature Financial Group*, 149 F.3d 1368 (Fed. Cir. 1998) cert denied.
6. *The claim has a clear “post solution” activity* (though in the case at hand, it is not a solution to a problem but, rather, results of a simulation).

Based on the above, it is respectfully submitted that claim 1, and all claims that depend thereon, are statutory.

New claim 21 is an apparatus claim. It is clearly statutory.

New claim 21 is an article of manufacture claim. It also is clearly statutory *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995).

As for the 35 USC 102 rejection, the affidavit submitted previously was apparently not considered because, through typographical error, it was captioned as an affidavit under 37 CFR 1.131 instead of 37 CFR 1.132. It is unfortunate that the Examiner felt constrained to totally ignore the affidavit. However, it is presented now with a corrected caption.

In view of the remarks in the aforementioned February 2, 2005 filing, the current amendments to the claims, the newly submitted affidavit, and the above remarks, applicants respectfully submit that all of the Examiner's rejections have been overcome. Reconsideration and allowance of the claims are respectfully solicited.

Dated: 3/30/05

Respectfully,
Boris Dmitrievich Lubachevsky

Alan Weiss

By


Henry T. Brendzel
Reg. No. 26,844
Phone (973) 467-2025
Fax (973) 467-6589
email brendzel@comcast.net